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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/987,707	11/15/2001	Alan J. Lipton	37112-175340	7303

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EXAMINER

LE, VU

ART UNIT PAPER NUMBER

2613

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/987,707

Applicant(s)

LIPTON ET AL

Examiner

Vu Le

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 15, 2005 has been entered.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-20, 22-24 and 29 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Independent claims 1 and 22 pertain to mere computer program per se, i.e. non-statutory functional descriptive material. See MPEP 2106 (IV)(B)(1)(a). The claims can remedy this problem by including the phrase "executable by a computer" after the word "software" to show linking to a physical act of a statutory product/process.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. **Claims 1, 3-11 and 13-29 are rejected under 35 U.S.C. 102(e) as being by Grech-Cini, US 2002/0024446 (hereinafter, patent '446).**

Re claim 1, patent '446 discloses the same computer-readable medium comprising software for a video surveillance system (para 0062), comprising code segments (i.e. smoke detection software, para 0062) for operating the video surveillance system based on video primitives (para 0090-0091), wherein the code segments for operating the video surveillance system comprise: code segments for extracting video primitives (para 0091, i.e. final smoke detection algorithms used to obtain image processing primitives. Examples of video primitives are described and listed in para 0076, 0120-0151); and code segments for extracting event occurrences from the video primitives (para 0152-0166, i.e. algorithm that makes a decision whether a real fire exists).

Re claim 3, wherein the event occurrences are extracted using event discriminators (para 0156-0159).

Re claim 4, further comprising code segments for archiving the extracted video primitives (para -01550156, i.e. the system stores data for nuisance and real alarms as separate classes. In other words, "features" or primitives are used for Bayesian analysis to determine different classes of event and/or to "train" the computer system to recognize different classes of event).

Re claim 5, further comprising code segments for undertaking a response based on extracted event occurrences (para 0158, i.e. a response is signaling an alarm condition).

Claim 6 has been analyzed and rejected w/r to claim 5. Signaling the alarm condition qualifies as initiating another sensor system.

Re claim 7, further comprising code segments for calibrating the video surveillance system (para 0156, i.e. "training" the system is a form of calibrating).

Claim 8 has been analyzed and rejected w/r to claim 7. Further, the training run for the system is intended for self-calibrating.

Claim 9 has been analyzed and rejected w/r to claims 1, 7-8. The "features" or primitives are derived from video sources (see fig. 1, para 0062. Smoke detecting is a form of tracking).

Claim 10 has been analyzed and rejected w/r to claim 1, 7-9. (See also para 0052, 0155).

Claim 11 has been analyzed and rejected w/r to claims 1, 7-10. (See also para 0074-0076, 0102, 0123-0124).

Claim 13 has been analyzed and rejected w/r to claims 1-11. The purpose of fire detection in patent '446 is for video surveillance task.

Claim 14 has been analyzed and rejected w/r to claims 1-11, 13.

Claim 15 has been analyzed and rejected w/r to claims 1-11, 13-14. See also para 0074-0076.

Claim 16 has been analyzed and rejected w/r to claims 1-11, 13-15. See also para 0133-0134. The change between previous and present pixels is temporal change.

Claim 17 has been analyzed and rejected w/r to claims 1-11, 13-16. See also para 0156-0166. The Bayesian analysis as disclosed in patent '446 involves interactive process.

Claim 18 has been analyzed and rejected w/r to claim 6.

Claim 19 has been analyzed and rejected w/r to claim 1. See also para 0062. Patent '446 discloses up to six parallel video streams may be accommodated. Hence, Additional video inputs inherently from additional video cameras qualify as "another sensor".

Claim 20 has been analyzed and rejected w/r to claims 1 and 4.

Claim 21 has been analyzed and rejected w/r to claim 1. The system is illustrated in figure 1.

Claim 29 has been analyzed and rejected w/r to claims 1-11, 13-20. See also para 0155-0166. In patent '446, the Rules based/Bayesian analysis to determine an event of a fire is based on both video primitives as disclosed and predefined statistics i.e. non-video primitives.

Claims 22-28 have been analyzed and rejected w/r to claims 1-21 and 29. In further regards to claim 28, see para 0062.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over patent '446.**

With respect to claims 1-11, it is evidenced that patent '446 is capable of self-calibrating (i.e. automatic) due to training run. However, semi-automatic and manual calibrating is within the scope of patent '446 because the user has the ultimate dictate of the setting up the system (see para 0153). Therefore, it would have been obvious in patent '446 to accommodate automatic, semi-automatic and/or manual calibrating as a matter of design.

Contact

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vu Le whose telephone number is (571) 272-7332. The examiner can normally be reached on M-F 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571) 272-7418. Customer Service

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can be reached at (571) 272-2600. The fax number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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